

EXHIBIT 5

Claimants
Jonathan Jacob Sacher
Third
18 March 2008
Exhibit "JJS2"

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

COMMERCIAL COURT

B E T W E E N:

(1) CAVELL USA INC.

(2) KENNETH EDWARD RANDALL

Claimants

- and -

(1) SEATON INSURANCE COMPANY & ANOR

(2) STONEWALL INSURANCE COMPANY

EXHIBIT "JJS2"

This is the Exhibit marked "JJS2" referred to in the Witness Statements of Jonathan Jacob Sacher dated this 18 day of March 2008.

*berwin leighton paisner

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Application Notice

- You must complete Parts A and B, and Part C if applicable
- Send any relevant fee and the completed application notice to the court with any draft order, witness statement or other evidence
- It is for you (and not the court) to serve this application notice

You should provide this information for listing the application

Time estimate 10 (hours) 00 (mins)

Is this agreed by all parties? Yes ☐ No ☒

Please always refer to the Commercial Court Guide for details of how applications should be prepared and will be heard, or in a small number of exceptional cases can be dealt with on paper.

IN THE HIGH COURT OF JUSTICE QUEEN'S BENCH DIVISION COMMERCIAL COURT ROYAL COURTS OF JUSTICE	
Claim No.	2007 Folio 1566
Warrant no. (If applicable)	
Claimant(s) (Including ref.)	(1) Cavell USA Inc (2) Kenneth Edward Randall Ref: JJS/DJM/22137/12
Defendant(s) (Including ref.)	(1) Seaton Insurance Company (2) Stonewall Insurance Company Ref: MD/IPM/91804/91805/003
Date	[] March 2008

Part A

1. Where there is more than one claimant or defendant, specify which claimant or defendant

(1) The claimants

(1) Cavell USA Inc; and (2) Kenneth Edward Randall

2. State clearly what order you are seeking (if there is room) or otherwise refer to a draft order (which must be attached)

(2) intend to apply for an order (a draft of which is attached) that

(1) An order that the following issue be tried as a preliminary issue in these proceedings:

Whether, on a proper construction of the Term Sheet documenting the agreement between Dukes Place Holdings LP and Randall & Quilter Investment Holdings Limited and signed in February 2006 ("the Term Sheet"), and in particular clause 29 thereof, the parties have agreed to submit all disputes {including claims in fraud against Randall (as defined in the Term Sheet)} to the exclusive jurisdiction of the English courts.

(2) A direction that a trial to determine that preliminary issue be certified as needing to be heard on an expedited basis.

(3) Directions in relation to the expedited trial of that issue.

(4) An order that the Defendants pay the costs of and occasioned by this application.

3. Briefly set out why you are seeking the order. Identify any rule or statutory provision

(3) because

For the reasons fully set out in the second witness statement of Jonathan Jacob Sacher served herewith.

Part B

(1) The claimant wishes to rely on:

tick one:

the attached witness statement

☒

(1) (the claimant)(the defendant)'s statement of case ☐

evidence in Part C overleaf in support of this application ☐

Signed

[Signature]

Applicants' solicitor

Position or office held
(if signing on behalf of firm, company or corporation)

Partner

4. If you are not already a party to the proceedings, you must provide an address for service of documents

(4) Address to which documents about this claim should be sent (including reference if appropriate)

Berwin Leighton Paisner LLP Adelaide House London Bridge London		if applicable	
		Tel. no.	020 7760 1000
		fax no.	020 7760 1111
		DX no.	92 Chancery Lane
Postcode	EC4R 9HA	e-mail	

Part C

Claim No. 2007 Folio 1566

(Note: Part C should only be used where it is convenient to enter here the evidence in support of the application, rather than to use witness statements or affidavits)

(1) (The claimant)(The defendant) wishes to rely on the following evidence in support of this application:

Statement of Truth

*(I believe)(The applicant believes) that the facts stated in this application notice are true

*I am duly authorised by the applicant to sign this statement

Full name

Name of *(Applicant)'s litigation friend)'s solicitor)

.....

Signed

*(Applicant)'s litigation friend)'s solicitor)

**Position or
office held**

(if signing on
behalf of firm,
company or
corporation)

Date

**delete as appropriate*